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ABSTRACT

A clear and effective relationship between the State and Federal governments is needed in pursuing school desegregation. The lack of State and Federal government congruence results in a desegregation policy that emanates from judicial decrees on a district by district basis. In Michigan, inconsistencies among districts and between Federal and State policies have hampered desegregation. Areas affected by these policy difficulties include: (1) educational improvement; (2) metropolitan desegregation plans; (3) Federal funding; (4) faculty desegregation; and (5) bilingual education. Social impediments to desegregation implementation also exists. More analytical research and improved coordination and clarification of desegregation policy are needed. (APM)

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DESEGREGATION

[CEMREL Paper 1]

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One of the factors that complicates the implementation of desegregation policies is that we have educational systems which are primarily a state responsibility, yet desegregation mandates are almost entirely federal. Most states, in my judgment, have not done much in terms of dealing with the questions of constitutionality and equity. In many desegregation cases you find states along with school districts fighting desegregation rather than accepting it as a constitutional responsibility. In state constitutions you will find noble phrases about "equal protection under the law," but where do you find states requiring school districts to live up to what is ascribed in their state constitutions?

Frequently, states move into desegregation as an afterthought. For example, in Michigan the state department has, in the past several years, promulgated guidelines with respect to racial isolation, but these are administrative guidelines without any clout. Michigan has not adequately dealt with the questions of what happens if the state finds racial isolation in a school district. Some states, like Wisconsin, have put out carrots in terms of additional state aid if urban/suburban school districts will collaborate together on voluntary efforts to reduce racial isolation. Another technique some states have used is that of appropriating additional funds, bonuses, to school districts that collaborate on voluntary efforts. Some states may give other incentives, but my view is that there is a vacuum at state level for school districts, administrators, and boards who might want to do something progressive in living up to constitutional responsibility.

A concrete example of that happened in our experience in Detroit. Our own case of Milliken versus Bradley was initiated after the state legislature passed a law which countermanded what our local board wanted to do with respect to changing some feeder patterns at the secondary school level. Those changes would have resulted over the years in eliminating racial isolation at the secondary level within our school district. The board wanted to do it on a voluntary basis, but there was an uproar in the local communities as well as in the state, and so the state passed legislation rescinding the action of the local board. What that meant was that the only avenue left was the litigation process. That was a beginning of Milliken versus Bradley.

If the legislative and executive branches do not provide leadership, the only option is the judicial route. At the state level there is definitely no congruence with what is clearly a federal requirement, so that there are no specific state policies and procedures for implementation of remedies. As a result, each case is decided individually on a district-by-district basis in the courts, and what policy we do have amounts to general guidelines emanating from judicial decrees.

For example, other Michigan desegregation cases are using Milliken vs. Bradley as a guideline. In the Benton Harbor case the district judge has ruled that Benton Harbor and a few other districts geographically close to Benton Harbor must be merged. My preliminary information indicates

that they are not only going to be looking at the physical movement of students within the involved districts, but they also are going to fashion a remedy in concert with the principles enunciated in Milliken II, which was decided by the U.S. Supreme Court in 1977. Milliken II gave legitimacy to fashioning remedies directed toward an educational improvement program in addition to physical movement of students to achieve a desirable racial quota. The Kalamazoo case, which predates Milliken vs. Bradley, is being reopened because there are claims that some portions of the district have been resegregated. They are looking not only at racial makeup but also what happens to children once they are in schools. Outside Michigan, the Wilmington case is another example of a metropolitan remedy involving an attempt to fashion an educational improvement effort so that students in desegregation situations will have the supportive program they need in order to progress satisfactorily.

As long as metropolitan remedies are not decreed you will find situations in cities where the argument is presented that the minority population is so large that you cannot just mechanically desegregate all the schools. In Detroit, for example, 86% of our some 228,000 students represent racial or ethnic minorities. It seems to me that in those cases the answer is twofold: one, school districts must desegregate to the extent that they can and two, they have a responsibility for trying to improve their educational programs for all students, whether or not they are in a desegregated situation.

If more states took a position such as that taken in Wisconsin, and if state legislatures were to do more in providing financial incentives for urban-suburban voluntary cooperative programs, that would be very helpful. It is important that such incentives clearly require two-way exchange and not just movement of urban students to suburban districts. In addition, I believe that states are going to have to enact very definite supportive legislation which would mandate penalties for a school district where racial isolation clearly exists. Promulgating guidelines with no force whatsoever does not convince school districts to change. A further benefit of such state legislation would be that it would cut down on the long litigative process which now exists. Litigation not only just delays the inevitable, but also expends a lot of resources that could be better spent in channels for improving educational programs. Educators ought to be devoting their energy toward issues of quality education rather than preparing materials for briefs and other aspects of litigation.

Some federal policies create additional difficulties related to desegregation. For example, Title I programs as well as others need to have greater flexibility for school districts that are desegregating, whether voluntarily or under court order. If Title I-identified students are involved in a desegregation transportation plan, schools ought to be able to use those Title I funds in the receiving school, irrespective of whether or not it has a heavy concentration of Title I eligible students which would identify it as a Title I school. In other words, the money

should follow the child.

Also, more federal dollars are needed under the Emergency School Aid Act to assist school districts that are desegregating. More planning dollars should be available so that there can be adequately thought-out plans prior to implementation, and there ought to be a commitment of dollars that a school district can count on for a minimum of three years, and ideally for five years. We ought not to have the annual frustration and concern about whether or not funds will be available. That does not mean that I am not in favor of responsible monitoring of how those funds are spent. It is my understanding that there is some movement in the direction of more long-term funding with ESAA dollars, which is a move in the right direction.

Another area where we need greater clarity between state and federal laws with respect to desegregation has to do with bilingual education. Many states, including Michigan, have passed laws requiring that programs be developed for students with limited English speaking ability. At the federal level there are also statutes requiring action, and there are judicial decisions. Unfortunately, the result is that there is too often little coordination and school districts are confused as to what is required. There is confusion in how you identify students who are eligible and must participate in a bilingual program. Also, some court decisions have excluded Hispanics from transportation plans while others have included them. Finally, both federal and state programs in this

area are woefully underfunded.

Generally speaking, policy is not communicated clearly whether it is federal, state, or local. Because you have so many voices involved in the area of desegregation there is a terrible problem of coordination. One finds conflicting court decrees which leave you wondering if there is a clear mandate that can be understood by everyone throughout the country. States say one thing constitutionally and do something else behaviorally. At the local level there is a babble of voices as to what needs to be done, and it is a mistake to assume that even within minority communities there is a single coherent position. Increasingly I am hearing voices that say desegregation may be a bad thing, and these are sometimes coming from people who once supported it.

Some of that change of sentiment is due to the way we evaluate the success of something like desegregation in this country. Typically, much of the research points only to whether achievement test scores have increased or decreased. In many instances expectations were raised to an unrealistic level during the sixties and seventies, and now when we find that achievement indicators simply do not live up to those expectations, some are saying that desegregation doesn't "work."

There are some other dynamics that contribute to that attitude. One is that there still exists a lot of racism in this country. Additionally, in many minority communities you have the issue of giving up political

power if you move toward a metropolitan desegregation plan. There is the concern that political power which has been gained by concentrations of minorities may be diminished and lost if cities are incorporated into a larger area where the majority would once again be white. In Wayne County, where Detroit is located, you do not see blacks being hired when there are vacancies for school superintendents or principals. The best employment opportunities for blacks are still in the City of Detroit. We have a number of black judges who have been elected in our city criminal court, but only one or two who have been elected to the county circuit court where the election is county-wide. Unfortunately, one does not find blacks in responsible positions of government or in the private sector unless blacks are in the majority. Those hard facts are leading many black people to take a second look at metropolitan remedies for school desegregation.

There are still enormous problems of putting into practice what is required by a policy. It is not so much a matter of knowing who is to do what, when, and where--those problems may be difficult but we become more skillful about them as time goes by. One of the easiest things in implementing a desegregation remedy is taking care of the mechanics--assigning students, getting the buses, and that sort of thing. That may appear difficult from a logistical point of view, but it is easy compared to the hardest of the problems, which is how do you create an educational program which meets the needs of all those youngsters once you get them into a school building. This is typical of

the process of implementing any major change in institutions. I am not sure what role external agencies, like the federal and state government, can play. It is not enough for them to say that they stand ready to provide technical assistance even though that may be very useful. We need more and I am not only talking about more money. I am talking more about understanding. We need a greater understanding at the highest policy levels of what is required in implementing programs, of what the whole implementation process involves. The judiciary seems to have a tendency to think that all they have to do is hand down the decree or order and overnight the institution is going to effectively respond. That is a very simplistic view because it ignores the whole dynamic of how institutions operate. You cannot eradicate things by issuing decrees and you cannot change attitudes and behavior overnight. If the judiciary, as well as the executive and legislative branches, understood how we have to work, they could help more than they do.

I believe we need better analytical research and we need to make those research results available to courts and other policymakers, so that they can isolate the salient issues in implementation and have a better understanding of what it will take to achieve the goals hopefully we all are aiming for. Generally speaking, it is not a question of disagreement of goals; it is a question of whether or not there is understanding on the part of the policymakers with respect to how you can effectively achieve those goals. In terms of desegregation, there is an enormous lack of knowledge on the part of the courts as to how to fashion remedies

to effectuate substantive programmatic improvements in education. It is relatively easy to set a ratio of one race to another. Agencies within the federal government could do schools a great service by identifying the salient factors in implementation and what roles should be played by courts and other agencies when we are dealing with those kinds of issues.

Another crucial factor is the lack of effective research about what models are available. Most of the studies about desegregation have been done in terms of whether it has been effective in raising student achievement. Not enough has been done in providing information about a range of effective implementation strategies. The federal government should spend more resources on this issue so that everybody could be clearer on what is involved in implementation. As it is, too many federal programs run into funding problems and are eliminated after five or six years because Congress and others are led to believe that if you spend a billion dollars on Title I programs, in three years you can expect to have every child reading at somebody's predetermined level.

We need also to be clearer about how we define compliance with desegregation policies. Compliance can be looked at from a process point of view or an output point of view. You can have instituted all the processes and still the results you hoped for may not be there. For example, part of our court order requires that a city-wide student code of conduct be implemented, with the intent that student rights and responsibilities be spelled out clearly and due process requirements

attended to. We can document that we have published and distributed the code, we have inserviced our staff on its use, and we institute due process when there are infractions. But our monitoring commission has raised some concern about whether we are in compliance. If compliance means that we have eliminated deviant student behavior in every school, certainly we have not achieved that. It was simplistic ever to think that just letting people know what behavior is expected and what the consequences of infractions of the behavior code will be would eradicate behavior problems. So I think that we need a clearer definition of compliance. There needs to be a better understanding of what the issues are, what you are going to look for, what standards you are going to use and how you can measure the efforts on the part of those responsible for implementation.

Another issue is that some districts have had conflict between local teacher personnel policies and court mandates. An example would be those situations where union-negotiated contracts include restraints which mitigate against faculty desegregation. It is absurd, in my view, to think that you can or should desegregate a student body while your faculty is segregated. In Detroit this was not a big issue because, prior to our court order, we had administrative policy that had already desegregated both administrative and teaching staff. But in talking with my colleagues around the country I know that some larger school districts have had a real problem with this issue. I believe that local policies which conflict with equity have to be set aside whether or not they were

negotiated contractually or set by board policy.

Our own administrative structure is a decentralized, although there is some central control. The kind of administrative structure is less important than a clear commitment on the part of top administrators to make desegregation work. In a decentralized structure it may take a little longer because more people are involved in the decision-making, but even then the more important factor is leadership.

Our problems in desegregation implementation in Detroit revolve around costs. We have had some financial support from both federal and state levels. We qualify for ESAA federal funds, and that provides from \$6-7 million additional dollars per year. One of the unique things about our decree was that, since the state along with our school district was found guilty of maintaining a segregated system, the court remedy required the state to pay 50% of the excess costs for the programs in reading, inservice training, testing, counseling and guidance. Because of that we received additional dollars from the state, plus the state provides half the cost (about \$25 million) for building and equipping five vocational technical centers. Even with that help, the desegregation order still required a reordering of local priorities. We now transport about 30,000 students whereas we transported relatively few before the court order. The state provides funds to help with the purchase of buses, and it reimburses the district up to 75% of allowable costs of transportation on our state aid formula. That still leaves us with a considerable increase

in our transportation budget which must come out of local funds.

Community response certainly impacts how implementation is carried out. We are fortunate in Detroit because the civic officials and other community leaders took a very strong position. When our case was decided by the Supreme Court, that exhausted all judicial options and, whether people liked it or not, the position taken was that there would be no tolerance of illegal interference with carrying out the order.

We did make every effort to deal with the very real questions and concerns that parents had about their children's safety, about what would happen if their child became ill in a school a long way from home, and other concerns of this nature. There has to be a lot of planning for how to handle details like that and community reaction is better when civic groups and community leaders are involved in providing the answers.

In Detroit there has not been a dramatic decline in our white student population. In fact, the percentage of decline is less this year than before. Declining enrollment affects desegregation implementation, but it is just one of many factors to be considered. It may mean we should close down some schools that should have been closed down anyway, and that has to be done consistent with the goals of desegregation.

This country is still struggling with the fundamental issue of whether or not it really means the noble ideas expressed in the Constitution.

That issue needs to be resolved clearly, once and for all, so that it does not depend on who sits on the Supreme Court at a given time to determine whether or not there is a basic change in federal policy with respect to the interpretation of the Fourteenth Amendment. Until the thought of second-class citizens becomes repugnant to the psyche of this nation we will not have equal opportunity.

In a more pragmatic sense, we need a much clearer definition of the policies that exist, and they need to be better coordinated. We need to have clarity with respect of the kinds of financial resources and other assistance that will be provided. Those resources should not depend on the whims of our economy or the whims of whatever party controls Congress or the executive branch. We need to be able to count on the moral leadership and the commitment of resources regardless of who is in control.

We need to have state leadership and commitment congruent with those national priorities. I would not want to change the primary responsibility for education from state to federal level but the quality of educational opportunity should not depend upon where one lives in a state or upon which state you live in. I am not one who fears state intervention in local districts because I think there are still too many racist notions embedded in American life for me to want to throw all my chips into local autonomy. There is too much risk of one being trapped by geographical circumstances if state and, as a last resort, federal supervision cannot be exercised.